

114TH CONGRESS
1ST SESSION

H. R. 26

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2015

Mr. NEUGEBAUER (for himself and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Terrorism Risk Insurance Program Reauthorization Act
6 of 2015”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—EXTENSION OF TERRORISM INSURANCE PROGRAM

- Sec. 101. Extension of Terrorism Insurance Program.
- Sec. 102. Federal share.
- Sec. 103. Program trigger.
- Sec. 104. Recoupment of Federal share of compensation under the program.
- Sec. 105. Certification of acts of terrorism; consultation with Secretary of Homeland Security.
- Sec. 106. Technical amendments.
- Sec. 107. Improving the certification process.
- Sec. 108. GAO study.
- Sec. 109. Membership of Board of Governors of the Federal Reserve System.
- Sec. 110. Advisory Committee on Risk-Sharing Mechanisms.
- Sec. 111. Reporting of terrorism insurance data.
- Sec. 112. Annual study of small insurer market competitiveness.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS REFORM

- Sec. 201. Short title.
- Sec. 202. Reestablishment of the National Association of Registered Agents and Brokers.

TITLE III—BUSINESS RISK MITIGATION AND PRICE STABILIZATION

- Sec. 301. Short title.
- Sec. 302. Margin requirements.
- Sec. 303. Implementation.

1 **TITLE I—EXTENSION OF TER-**
 2 **RORISM INSURANCE PRO-**
 3 **GRAM**

4 **SEC. 101. EXTENSION OF TERRORISM INSURANCE PRO-**
 5 **GRAM.**

6 Section 108(a) of the Terrorism Risk Insurance Act
 7 of 2002 (15 U.S.C. 6701 note) is amended by striking
 8 “December 31, 2014” and inserting “December 31,
 9 2020”.

1 **SEC. 102. FEDERAL SHARE.**

2 Section 103(e)(1)(A) of the Terrorism Risk Insur-
3 ance Act of 2002 (15 U.S.C. 6701 note) is amended by
4 inserting “and beginning on January 1, 2016, shall de-
5 crease by 1 percentage point per calendar year until equal
6 to 80 percent” after “85 percent”.

7 **SEC. 103. PROGRAM TRIGGER.**

8 Subparagraph (B) of section 103(e)(1) (15 U.S.C.
9 6701 note) is amended in the matter preceding clause
10 (i)—

11 (1) by striking “a certified act” and inserting
12 “certified acts”;

13 (2) by striking “such certified act” and insert-
14 ing “such certified acts”; and

15 (3) by striking “exceed” and all that follows
16 through clause (ii) and inserting the following: “ex-
17 ceed—

18 “(i) \$100,000,000, with respect to
19 such insured losses occurring in calendar
20 year 2015;

21 “(ii) \$120,000,000, with respect to
22 such insured losses occurring in calendar
23 year 2016;

24 “(iii) \$140,000,000, with respect to
25 such insured losses occurring in calendar
26 year 2017;

1 “(iv) \$160,000,000, with respect to
2 such insured losses occurring in calendar
3 year 2018;

4 “(v) \$180,000,000, with respect to
5 such insured losses occurring in calendar
6 year 2019; and

7 “(vi) \$200,000,000, with respect to
8 such insured losses occurring in calendar
9 year 2020 and any calendar year there-
10 after.”.

11 **SEC. 104. RECOUPMENT OF FEDERAL SHARE OF COM-**
12 **PENSATION UNDER THE PROGRAM.**

13 Section 103(e) of the Terrorism Risk Insurance Act
14 of 2002 (15 U.S.C. 6701 note) is amended—

15 (1) by amending paragraph (6) to read as fol-
16 lows:

17 “(6) INSURANCE MARKETPLACE AGGREGATE
18 RETENTION AMOUNT.—

19 “(A) IN GENERAL.—For purposes of para-
20 graph (7), the insurance marketplace aggregate
21 retention amount shall be the lesser of—

22 “(i) \$27,500,000,000, as such amount
23 is revised pursuant to this paragraph; and

1 “(ii) the aggregate amount, for all in-
2 surers, of insured losses during such cal-
3 endar year.

4 “(B) REVISION OF INSURANCE MARKET-
5 PLACE AGGREGATE RETENTION AMOUNT.—

6 “(i) PHASE-IN.—Beginning in the cal-
7 endar year of enactment of the Terrorism
8 Risk Insurance Program Reauthorization
9 Act of 2015, the amount set forth under
10 subparagraph (A)(i) shall increase by
11 \$2,000,000,000 per calendar year until
12 equal to \$37,500,000,000.

13 “(ii) FURTHER REVISION.—Beginning
14 in the calendar year that follows the cal-
15 endar year in which the amount set forth
16 under subparagraph (A)(i) is equal to
17 \$37,500,000,000, the amount under sub-
18 paragraph (A)(i) shall be revised to be the
19 amount equal to the annual average of the
20 sum of insurer deductibles for all insurers
21 participating in the Program for the prior
22 3 calendar years, as such sum is deter-
23 mined by the Secretary under subpara-
24 graph (C).

1 “(C) RULEMAKING.—Not later than 3
2 years after the date of enactment of the Ter-
3 rorism Risk Insurance Program Reauthoriza-
4 tion Act of 2015, the Secretary shall—

5 “(i) issue final rules for determining
6 the amount of the sum described under
7 subparagraph (B)(ii); and

8 “(ii) provide a timeline for public noti-
9 fication of such determination.”; and

10 (2) in paragraph (7)—

11 (A) in subparagraph (A)—

12 (i) in the matter preceding clause (i),
13 by striking “for each of the periods re-
14 ferred to in subparagraphs (A) through
15 (E) of paragraph (6)”; and

16 (ii) in clause (i), by striking “for such
17 period”;

18 (B) by striking subparagraph (B) and in-
19 serting the following:

20 “(B) [Reserved.]”;

21 (C) in subparagraph (C)—

22 (i) by striking “occurring during any
23 of the periods referred to in any of sub-
24 paragraphs (A) through (E) of paragraph
25 (6), terrorism loss risk-spreading pre-

1 miums in an amount equal to 133 percent”
2 and inserting “, terrorism loss risk-spread-
3 ing premiums in an amount equal to 140
4 percent”; and

5 (ii) by inserting “as calculated under
6 subparagraph (A)” after “mandatory
7 recoupment amount”; and

8 (D) in subparagraph (E)(i)—

9 (i) in subclause (I)—

10 (I) by striking “2010” and in-
11 serring “2017”; and

12 (II) by striking “2012” and in-
13 serring “2019”;

14 (ii) in subclause (II)—

15 (I) by striking “2011” and in-
16 serring “2018”;

17 (II) by striking “2012” and in-
18 serring “2019”; and

19 (III) by striking “2017” and in-
20 serring “2024”; and

21 (iii) in subclause (III)—

22 (I) by striking “2012” and in-
23 serring “2019”; and

24 (II) by striking “2017” and in-
25 serring “2024”.

1 **SEC. 105. CERTIFICATION OF ACTS OF TERRORISM; CON-**
2 **SULTATION WITH SECRETARY OF HOMELAND**
3 **SECURITY.**

4 Paragraph (1)(A) of section 102 (15 U.S.C. 6701
5 note) is amended in the matter preceding clause (i), by
6 striking “concurrence with the Secretary of State” and in-
7 serting “consultation with the Secretary of Homeland Se-
8 curity”.

9 **SEC. 106. TECHNICAL AMENDMENTS.**

10 The Terrorism Risk Insurance Act of 2002 (15
11 U.S.C. 6701 note) is amended—

12 (1) in section 102—

13 (A) in paragraph (3)—

14 (i) by redesignating subparagraphs
15 (A), (B), and (C) as clauses (i), (ii), and
16 (iii), respectively;

17 (ii) in the matter preceding clause (i)
18 (as so redesignated), by striking “An enti-
19 ty has” and inserting the following:

20 “(A) IN GENERAL.—An entity has”; and

21 (iii) by adding at the end the fol-
22 lowing new subparagraph:

23 “(B) RULE OF CONSTRUCTION.—An enti-
24 ty, including any affiliate thereof, does not have
25 ‘control’ over another entity, if, as of the date
26 of enactment of the Terrorism Risk Insurance

1 Program Reauthorization Act of 2015, the enti-
2 ty is acting as an attorney-in-fact, as defined by
3 the Secretary, for the other entity and such
4 other entity is a reciprocal insurer, provided
5 that the entity is not, for reasons other than
6 the attorney-in-fact relationship, defined as hav-
7 ing ‘control’ under subparagraph (A).’;

8 (B) in paragraph (7)—

9 (i) by striking subparagraphs (A)
10 through (F) and inserting the following:

11 “(A) the value of an insurer’s direct
12 earned premiums during the immediately pre-
13 ceding calendar year, multiplied by 20 percent;
14 and”;

15 (ii) by redesignating subparagraph
16 (G) as subparagraph (B); and

17 (iii) in subparagraph (B), as so reded-
18 icated by clause (ii)—

19 (I) by striking “notwithstanding
20 subparagraphs (A) through (F), for
21 the Transition Period or any Program
22 Year” and inserting “notwithstanding
23 subparagraph (A), for any calendar
24 year”; and

1 (II) by striking “Period or Pro-
2 gram Year” and inserting “calendar
3 year”;

4 (C) by striking paragraph (11); and

5 (D) by redesignating paragraphs (12)
6 through (16) as paragraphs (11) through (15),
7 respectively; and

8 (2) in section 103—

9 (A) in subsection (b)(2)—

10 (i) in subparagraph (B), by striking “,
11 purchase,”; and

12 (ii) in subparagraph (C), by striking
13 “, purchase,”;

14 (B) in subsection (c), by striking “Pro-
15 gram Year” and inserting “calendar year”;

16 (C) in subsection (e)—

17 (i) in paragraph (1)(A), as previously
18 amended by section 102—

19 (I) by striking “the Transition
20 Period and each Program Year
21 through Program Year 4 shall be
22 equal to 90 percent, and during Pro-
23 gram Year 5 and each Program Year
24 thereafter” and inserting “each cal-
25 endar year”;

1 (II) by striking the comma after
2 “80 percent”; and

3 (III) by striking “such Transition
4 Period or such Program Year” and
5 inserting “such calendar year”;

6 (ii) in paragraph (2)(A), by striking
7 “the period beginning on the first day of
8 the Transition Period and ending on the
9 last day of Program Year 1, or during any
10 Program Year thereafter” and inserting “a
11 calendar year”; and

12 (iii) in paragraph (3), by striking “the
13 period beginning on the first day of the
14 Transition Period and ending on the last
15 day of Program Year 1, or during any
16 other Program Year” and inserting “any
17 calendar year”; and

18 (D) in subsection (g)(2)—

19 (i) by striking “the Transition Period
20 or a Program Year” each place that term
21 appears and inserting “the calendar year”;

22 (ii) by striking “such period” and in-
23 serting “the calendar year”; and

24 (iii) by striking “that period” and in-
25 serting “the calendar year”.

1 **SEC. 107. IMPROVING THE CERTIFICATION PROCESS.**

2 (a) DEFINITIONS.—As used in this section—

3 (1) the term “act of terrorism” has the same
4 meaning as in section 102(1) of the Terrorism Risk
5 Insurance Act of 2002 (15 U.S.C. 6701 note);

6 (2) the term “certification process” means the
7 process by which the Secretary determines whether
8 to certify an act as an act of terrorism under section
9 102(1) of the Terrorism Risk Insurance Act of 2002
10 (15 U.S.C. 6701 note); and

11 (3) the term “Secretary” means the Secretary
12 of the Treasury.

13 (b) STUDY.—Not later than 9 months after the date
14 of enactment of this Act, the Secretary shall conduct and
15 complete a study on the certification process.

16 (c) REQUIRED CONTENT.—The study required under
17 subsection (a) shall include an examination and analysis
18 of—

19 (1) the establishment of a reasonable timeline
20 by which the Secretary must make an accurate de-
21 termination on whether to certify an act as an act
22 of terrorism;

23 (2) the impact that the length of any timeline
24 proposed to be established under paragraph (1) may
25 have on the insurance industry, policyholders, con-
26 sumers, and taxpayers as a whole;

1 (3) the factors the Secretary would evaluate
2 and monitor during the certification process, includ-
3 ing the ability of the Secretary to obtain the re-
4 quired information regarding the amount of pro-
5 jected and incurred losses resulting from an act
6 which the Secretary would need in determining
7 whether to certify the act as an act of terrorism;

8 (4) the appropriateness, efficiency, and effec-
9 tiveness of the consultation process required under
10 section 102(1)(A) of the Terrorism Risk Insurance
11 Act of 2002 (15 U.S.C. 6701 note) and any rec-
12 ommendations on changes to the consultation proc-
13 ess; and

14 (5) the ability of the Secretary to provide guid-
15 ance and updates to the public regarding any act
16 that may reasonably be certified as an act of ter-
17 rorism.

18 (d) REPORT.—Upon completion of the study required
19 under subsection (a), the Secretary shall submit a report
20 on the results of such study to the Committee on Banking,
21 Housing, and Urban Affairs of the Senate and the Com-
22 mittee on Financial Services of the House of Representa-
23 tives.

1 (e) RULEMAKING.—Section 102(1) of the Terrorism
2 Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is
3 amended—

4 (1) by redesignating subparagraph (D) as sub-
5 paragraph (E); and

6 (2) by inserting after subparagraph (C) the fol-
7 lowing:

8 “(D) TIMING OF CERTIFICATION.—Not
9 later than 9 months after the report required
10 under section 107 of the Terrorism Risk Insur-
11 ance Program Reauthorization Act of 2015 is
12 submitted to the appropriate committees of
13 Congress, the Secretary shall issue final rules
14 governing the certification process, including es-
15 tablishing a timeline for which an act is eligible
16 for certification by the Secretary on whether an
17 act is an act of terrorism under this para-
18 graph.”.

19 **SEC. 108. GAO STUDY.**

20 (a) STUDY.—Not later than 2 years after the date
21 of enactment of this Act, the Comptroller General of the
22 United States shall complete a study on the viability and
23 effects of the Federal Government—

24 (1) assessing and collecting upfront premiums
25 on insurers that participate in the Terrorism Insur-

1 ance Program established under the Terrorism Risk
2 Insurance Act of 2002 (15 U.S.C. 6701 note) (here-
3 after in this section referred to as the “Program”),
4 which shall include a comparison of practices in
5 international markets to assess and collect premiums
6 either before or after terrorism losses are incurred;
7 and

8 (2) creating a capital reserve fund under the
9 Program and requiring insurers participating in the
10 Program to dedicate capital specifically for terrorism
11 losses before such losses are incurred, which shall in-
12 clude a comparison of practices in international mar-
13 kets to establish reserve funds.

14 (b) REQUIRED CONTENT.—The study required under
15 subsection (a) shall examine, but shall not be limited to,
16 the following issues:

17 (1) UPFRONT PREMIUMS.—With respect to up-
18 front premiums described in subsection (a)(1)—

19 (A) how the Federal Government could de-
20 termine the price of such upfront premiums on
21 insurers that participate in the Program;

22 (B) how the Federal Government could col-
23 lect and manage such upfront premiums;

24 (C) how the Federal Government could en-
25 sure that such upfront premiums are not spent

1 for purposes other than claims through the Pro-
2 gram;

3 (D) how the assessment and collection of
4 such upfront premiums could affect take-up
5 rates for terrorism risk coverage in different re-
6 gions and industries and how it could impact
7 small businesses and consumers in both metro-
8 politan and non-metropolitan areas;

9 (E) the effect of collecting such upfront
10 premiums on insurers both large and small;

11 (F) the effect of collecting such upfront
12 premiums on the private market for terrorism
13 risk reinsurance; and

14 (G) the size of any Federal Government
15 subsidy insurers may receive through their par-
16 ticipation in the Program, taking into account
17 the Program's current post-event recoupment
18 structure.

19 (2) CAPITAL RESERVE FUND.—With respect to
20 the capital reserve fund described in subsection
21 (a)(2)—

22 (A) how the creation of a capital reserve
23 fund would affect the Federal Government's fis-
24 cal exposure under the Terrorism Risk Insur-

1 ance Program and the ability of the Program to
2 meet its statutory purposes;

3 (B) how a capital reserve fund would im-
4 pact insurers and reinsurers, including liquidity,
5 insurance pricing, and capacity to provide ter-
6 rorism risk coverage;

7 (C) the feasibility of segregating funds at-
8 tributable to terrorism risk from funds attrib-
9 utable to other insurance lines;

10 (D) how a capital reserve fund would be
11 viewed and treated under current Financial Ac-
12 counting Standards Board accounting rules and
13 the tax laws; and

14 (E) how a capital reserve fund would affect
15 the States' ability to regulate insurers partici-
16 pating in the Program.

17 (3) INTERNATIONAL PRACTICES.—With respect
18 to international markets referred to in paragraphs
19 (1) and (2) of subsection (a), how other countries,
20 if any—

21 (A) have established terrorism insurance
22 structures;

23 (B) charge premiums or otherwise collect
24 funds to pay for the costs of terrorism insur-

1 ance structures, including risk and administra-
2 tive costs; and

3 (C) have established capital reserve funds
4 to pay for the costs of terrorism insurance
5 structures.

6 (c) REPORT.—Upon completion of the study required
7 under subsection (a), the Comptroller General shall sub-
8 mit a report on the results of such study to the Committee
9 on Banking, Housing, and Urban Affairs of the Senate
10 and the Committee on Financial Services of the House of
11 Representatives.

12 (d) PUBLIC AVAILABILITY.—The study and report
13 required under this section shall be made available to the
14 public in electronic form and shall be published on the
15 website of the Government Accountability Office.

16 **SEC. 109. MEMBERSHIP OF BOARD OF GOVERNORS OF THE**
17 **FEDERAL RESERVE SYSTEM.**

18 (a) IN GENERAL.—The first undesignated paragraph
19 of section 10 of the Federal Reserve Act (12 U.S.C. 241)
20 is amended by inserting after the second sentence the fol-
21 lowing: “In selecting members of the Board, the President
22 shall appoint at least 1 member with demonstrated pri-
23 mary experience working in or supervising community
24 banks having less than \$10,000,000,000 in total assets.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on the date of enactment of
3 this Act and apply to appointments made on and after
4 that effective date, excluding any nomination pending in
5 the Senate on that date.

6 **SEC. 110. ADVISORY COMMITTEE ON RISK-SHARING MECH-**
7 **ANISMS.**

8 (a) FINDING; RULE OF CONSTRUCTION.—

9 (1) FINDING.—Congress finds that it is desir-
10 able to encourage the growth of nongovernmental,
11 private market reinsurance capacity for protection
12 against losses arising from acts of terrorism.

13 (2) RULE OF CONSTRUCTION.—Nothing in this
14 Act, any amendment made by this Act, or the Ter-
15 rorism Risk Insurance Act of 2002 (15 U.S.C. 6701
16 note) shall prohibit insurers from developing risk-
17 sharing mechanisms to voluntarily reinsure terrorism
18 losses between and among themselves.

19 (b) ADVISORY COMMITTEE ON RISK-SHARING MECH-
20 ANISMS.—

21 (1) ESTABLISHMENT.—The Secretary of the
22 Treasury shall establish and appoint an advisory
23 committee to be known as the “Advisory Committee
24 on Risk-Sharing Mechanisms” (referred to in this
25 subsection as the “Advisory Committee”).

1 (2) DUTIES.—The Advisory Committee shall
2 provide advice, recommendations, and encourage-
3 ment with respect to the creation and development
4 of the nongovernmental risk-sharing mechanisms de-
5 scribed under subsection (a).

6 (3) MEMBERSHIP.—The Advisory Committee
7 shall be composed of 9 members who are directors,
8 officers, or other employees of insurers, reinsurers,
9 or capital market participants that are participating
10 or that desire to participate in the nongovernmental
11 risk-sharing mechanisms described under subsection
12 (a), and who are representative of the affected sec-
13 tors of the insurance industry, including commercial
14 property insurance, commercial casualty insurance,
15 reinsurance, and alternative risk transfer industries.

16 **SEC. 111. REPORTING OF TERRORISM INSURANCE DATA.**

17 Section 104 (15 U.S.C. 6701 note) is amended by
18 adding at the end the following new subsection:

19 “(h) REPORTING OF TERRORISM INSURANCE
20 DATA.—

21 “(1) AUTHORITY.—During the calendar year
22 beginning on January 1, 2016, and in each calendar
23 year thereafter, the Secretary shall require insurers
24 participating in the Program to submit to the Sec-
25 retary such information regarding insurance cov-

1 erage for terrorism losses of such insurers as the
2 Secretary considers appropriate to analyze the effec-
3 tiveness of the Program, which shall include infor-
4 mation regarding—

5 “(A) lines of insurance with exposure to
6 such losses;

7 “(B) premiums earned on such coverage;

8 “(C) geographical location of exposures;

9 “(D) pricing of such coverage;

10 “(E) the take-up rate for such coverage;

11 “(F) the amount of private reinsurance for
12 acts of terrorism purchased; and

13 “(G) such other matters as the Secretary
14 considers appropriate.

15 “(2) REPORTS.—Not later than June 30, 2016,
16 and every other June 30 thereafter, the Secretary
17 shall submit a report to the Committee on Financial
18 Services of the House of Representatives and the
19 Committee on Banking, Housing, and Urban Affairs
20 of the Senate that includes—

21 “(A) an analysis of the overall effectiveness
22 of the Program;

23 “(B) an evaluation of any changes or
24 trends in the data collected under paragraph
25 (1);

1 “(C) an evaluation of whether any aspects
2 of the Program have the effect of discouraging
3 or impeding insurers from providing commercial
4 property casualty insurance coverage or cov-
5 erage for acts of terrorism;

6 “(D) an evaluation of the impact of the
7 Program on workers’ compensation insurers;
8 and

9 “(E) in the case of the data reported in
10 paragraph (1)(B), an updated estimate of the
11 total amount earned since January 1, 2003.

12 “(3) PROTECTION OF DATA.—To the extent
13 possible, the Secretary shall contract with an insur-
14 ance statistical aggregator to collect the information
15 described in paragraph (1), which shall keep any
16 nonpublic information confidential and provide it to
17 the Secretary in an aggregate form or in such other
18 form or manner that does not permit identification
19 of the insurer submitting such information.

20 “(4) ADVANCE COORDINATION.—Before col-
21 lecting any data or information under paragraph (1)
22 from an insurer, or affiliate of an insurer, the Sec-
23 retary shall coordinate with the appropriate State in-
24 surance regulatory authorities and any relevant gov-
25 ernment agency or publicly available sources to de-

1 termine if the information to be collected is available
2 from, and may be obtained in a timely manner by,
3 individually or collectively, such entities. If the Sec-
4 retary determines that such data or information is
5 available, and may be obtained in a timely matter,
6 from such entities, the Secretary shall obtain the
7 data or information from such entities. If the Sec-
8 retary determines that such data or information is
9 not so available, the Secretary may collect such data
10 or information from an insurer and affiliates.

11 “(5) CONFIDENTIALITY.—

12 “(A) RETENTION OF PRIVILEGE.—The
13 submission of any non-publicly available data
14 and information to the Secretary and the shar-
15 ing of any non-publicly available data with or
16 by the Secretary among other Federal agencies,
17 the State insurance regulatory authorities, or
18 any other entities under this subsection shall
19 not constitute a waiver of, or otherwise affect,
20 any privilege arising under Federal or State law
21 (including the rules of any Federal or State
22 court) to which the data or information is oth-
23 erwise subject.

24 “(B) CONTINUED APPLICATION OF PRIOR
25 CONFIDENTIALITY AGREEMENTS.—Any require-

1 ment under Federal or State law to the extent
2 otherwise applicable, or any requirement pursu-
3 ant to a written agreement in effect between
4 the original source of any non-publicly available
5 data or information and the source of such data
6 or information to the Secretary, regarding the
7 privacy or confidentiality of any data or infor-
8 mation in the possession of the source to the
9 Secretary, shall continue to apply to such data
10 or information after the data or information
11 has been provided pursuant to this subsection.

12 “(C) INFORMATION-SHARING AGREE-
13 MENT.—Any data or information obtained by
14 the Secretary under this subsection may be
15 made available to State insurance regulatory
16 authorities, individually or collectively through
17 an information-sharing agreement that—

18 “(i) shall comply with applicable Fed-
19 eral law; and

20 “(ii) shall not constitute a waiver of,
21 or otherwise affect, any privilege under
22 Federal or State law (including any privi-
23 lege referred to in subparagraph (A) and
24 the rules of any Federal or State court) to

1 which the data or information is otherwise
2 subject.

3 “(D) AGENCY DISCLOSURE REQUIRE-
4 MENTS.—Section 552 of title 5, United States
5 Code, including any exceptions thereunder, shall
6 apply to any data or information submitted
7 under this subsection to the Secretary by an in-
8 surer or affiliate of an insurer.”.

9 **SEC. 112. ANNUAL STUDY OF SMALL INSURER MARKET**
10 **COMPETITIVENESS.**

11 Section 108 (15 U.S.C. 6701 note) is amended by
12 adding at the end the following new subsection:

13 “(h) STUDY OF SMALL INSURER MARKET COMPETI-
14 TIVENESS.—

15 “(1) IN GENERAL.—Not later than June 30,
16 2017, and every other June 30 thereafter, the Sec-
17 retary shall conduct a study of small insurers (as
18 such term is defined by regulation by the Secretary)
19 participating in the Program, and identify any com-
20 petitive challenges small insurers face in the ter-
21 rorism risk insurance marketplace, including—

22 “(A) changes to the market share, pre-
23 mium volume, and policyholder surplus of small
24 insurers relative to large insurers;

1 “(B) how the property and casualty insur-
2 ance market for terrorism risk differs between
3 small and large insurers, and whether such a
4 difference exists within other perils;

5 “(C) the impact of the Program’s manda-
6 tory availability requirement under section
7 103(c) on small insurers;

8 “(D) the effect of increasing the trigger
9 amount for the Program under section
10 103(e)(1)(B) on small insurers;

11 “(E) the availability and cost of private re-
12 insurance for small insurers; and

13 “(F) the impact that State workers com-
14 pensation laws have on small insurers and
15 workers compensation carriers in the terrorism
16 risk insurance marketplace.

17 “(2) REPORT.—The Secretary shall submit a
18 report to the Congress setting forth the findings and
19 conclusions of each study required under paragraph
20 (1).”.

1 **TITLE II—NATIONAL ASSOCIA-**
 2 **TION OF REGISTERED**
 3 **AGENTS AND BROKERS RE-**
 4 **FORM**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “National Association
 7 of Registered Agents and Brokers Reform Act of 2015”.

8 **SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**
 9 **TION OF REGISTERED AGENTS AND BRO-**
 10 **KERS.**

11 (a) **IN GENERAL.**—Subtitle C of title III of the
 12 Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is
 13 amended to read as follows:

14 **“Subtitle C—National Association**
 15 **of Registered Agents and Brokers**

16 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**
 17 **AGENTS AND BROKERS.**

18 “(a) **ESTABLISHMENT.**—There is established the Na-
 19 tional Association of Registered Agents and Brokers (re-
 20 ferred to in this subtitle as the ‘Association’).

21 “(b) **STATUS.**—The Association shall—

22 “(1) be a nonprofit corporation;

23 “(2) not be an agent or instrumentality of the
 24 Federal Government;

1 “(3) be an independent organization that may
2 not be merged with or into any other private or pub-
3 lic entity; and

4 “(4) except as otherwise provided in this sub-
5 title, be subject to, and have all the powers conferred
6 upon, a nonprofit corporation by the District of Co-
7 lumbia Nonprofit Corporation Act (D.C. Code, sec.
8 29–301.01 et seq.) or any successor thereto.

9 **“SEC. 322. PURPOSE.**

10 “The purpose of the Association shall be to provide
11 a mechanism through which licensing, continuing edu-
12 cation, and other nonresident insurance producer quali-
13 fication requirements and conditions may be adopted and
14 applied on a multi-state basis without affecting the laws,
15 rules, and regulations, and preserving the rights of a
16 State, pertaining to—

17 “(1) licensing, continuing education, and other
18 qualification requirements of insurance producers
19 that are not members of the Association;

20 “(2) resident or nonresident insurance producer
21 appointment requirements;

22 “(3) supervising and disciplining resident and
23 nonresident insurance producers;

24 “(4) establishing licensing fees for resident and
25 nonresident insurance producers so that there is no

1 loss of insurance producer licensing revenue to the
2 State; and

3 “(5) prescribing and enforcing laws and regula-
4 tions regulating the conduct of resident and non-
5 resident insurance producers.

6 **“SEC. 323. MEMBERSHIP.**

7 “(a) ELIGIBILITY.—

8 “(1) IN GENERAL.—Any insurance producer li-
9 censed in its home State shall, subject to paragraphs
10 (2) and (4), be eligible to become a member of the
11 Association.

12 “(2) INELIGIBILITY FOR SUSPENSION OR REV-
13 OCATION OF LICENSE.—Subject to paragraph (3),
14 an insurance producer is not eligible to become a
15 member of the Association if a State insurance regu-
16 lator has suspended or revoked the insurance license
17 of the insurance producer in that State.

18 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph
19 (2) shall cease to apply to any insurance producer
20 if—

21 “(A) the State insurance regulator reissues
22 or renews the license of the insurance producer
23 in the State in which the license was suspended
24 or revoked, or otherwise terminates or vacates
25 the suspension or revocation; or

1 “(B) the suspension or revocation expires
2 or is subsequently overturned by a court of
3 competent jurisdiction.

4 “(4) CRIMINAL HISTORY RECORD CHECK RE-
5 QUIRED.—

6 “(A) IN GENERAL.—An insurance pro-
7 ducer who is an individual shall not be eligible
8 to become a member of the Association unless
9 the insurance producer has undergone a crimi-
10 nal history record check that complies with reg-
11 ulations prescribed by the Attorney General of
12 the United States under subparagraph (K).

13 “(B) CRIMINAL HISTORY RECORD CHECK
14 REQUESTED BY HOME STATE.—An insurance
15 producer who is licensed in a State and who has
16 undergone a criminal history record check dur-
17 ing the 2-year period preceding the date of sub-
18 mission of an application to become a member
19 of the Association, in compliance with a re-
20 quirement to undergo such criminal history
21 record check as a condition for such licensure
22 in the State, shall be deemed to have undergone
23 a criminal history record check for purposes of
24 subparagraph (A).

1 “(C) CRIMINAL HISTORY RECORD CHECK
2 REQUESTED BY ASSOCIATION.—

3 “(i) IN GENERAL.—The Association
4 shall, upon request by an insurance pro-
5 ducer licensed in a State, submit finger-
6 prints or other identification information
7 obtained from the insurance producer, and
8 a request for a criminal history record
9 check of the insurance producer, to the
10 Federal Bureau of Investigation.

11 “(ii) PROCEDURES.—The board of di-
12 rectors of the Association (referred to in
13 this subtitle as the ‘Board’) shall prescribe
14 procedures for obtaining and utilizing fin-
15 gerprints or other identification informa-
16 tion and criminal history record informa-
17 tion, including the establishment of reason-
18 able fees to defray the expenses of the As-
19 sociation in connection with the perform-
20 ance of a criminal history record check and
21 appropriate safeguards for maintaining
22 confidentiality and security of the informa-
23 tion. Any fees charged pursuant to this
24 clause shall be separate and distinct from

1 those charged by the Attorney General
2 pursuant to subparagraph (I).

3 “(D) FORM OF REQUEST.—A submission
4 under subparagraph (C)(i) shall include such
5 fingerprints or other identification information
6 as is required by the Attorney General con-
7 cerning the person about whom the criminal
8 history record check is requested, and a state-
9 ment signed by the person authorizing the At-
10 torney General to provide the information to
11 the Association and for the Association to re-
12 ceive the information.

13 “(E) PROVISION OF INFORMATION BY AT-
14 TORNEY GENERAL.—Upon receiving a submis-
15 sion under subparagraph (C)(i) from the Asso-
16 ciation, the Attorney General shall search all
17 criminal history records of the Federal Bureau
18 of Investigation, including records of the Crimi-
19 nal Justice Information Services Division of the
20 Federal Bureau of Investigation, that the At-
21 torney General determines appropriate for
22 criminal history records corresponding to the
23 fingerprints or other identification information
24 provided under subparagraph (D) and provide

1 all criminal history record information included
2 in the request to the Association.

3 “(F) LIMITATION ON PERMISSIBLE USES
4 OF INFORMATION.—Any information provided
5 to the Association under subparagraph (E) may
6 only—

7 “(i) be used for purposes of deter-
8 mining compliance with membership cri-
9 teria established by the Association;

10 “(ii) be disclosed to State insurance
11 regulators, or Federal or State law en-
12 forcement agencies, in conformance with
13 applicable law; or

14 “(iii) be disclosed, upon request, to
15 the insurance producer to whom the crimi-
16 nal history record information relates.

17 “(G) PENALTY FOR IMPROPER USE OR
18 DISCLOSURE.—Whoever knowingly uses any in-
19 formation provided under subparagraph (E) for
20 a purpose not authorized in subparagraph (F),
21 or discloses any such information to anyone not
22 authorized to receive it, shall be fined not more
23 than \$50,000 per violation as determined by a
24 court of competent jurisdiction.

1 “(H) RELIANCE ON INFORMATION.—Nei-
2 ther the Association nor any of its Board mem-
3 bers, officers, or employees shall be liable in
4 any action for using information provided under
5 subparagraph (E) as permitted under subpara-
6 graph (F) in good faith and in reasonable reli-
7 ance on its accuracy.

8 “(I) FEES.—The Attorney General may
9 charge a reasonable fee for conducting the
10 search and providing the information under
11 subparagraph (E), and any such fee shall be
12 collected and remitted by the Association to the
13 Attorney General.

14 “(J) RULE OF CONSTRUCTION.—Nothing
15 in this paragraph shall be construed as—

16 “(i) requiring a State insurance regu-
17 lator to perform criminal history record
18 checks under this section; or

19 “(ii) limiting any other authority that
20 allows access to criminal history records.

21 “(K) REGULATIONS.—The Attorney Gen-
22 eral shall prescribe regulations to carry out this
23 paragraph, which shall include—

1 “(i) appropriate protections for ensur-
2 ing the confidentiality of information pro-
3 vided under subparagraph (E); and

4 “(ii) procedures providing a reason-
5 able opportunity for an insurance producer
6 to contest the accuracy of information re-
7 garding the insurance producer provided
8 under subparagraph (E).

9 “(L) INELIGIBILITY FOR MEMBERSHIP.—

10 “(i) IN GENERAL.—The Association
11 may, under reasonably consistently applied
12 standards, deny membership to an insur-
13 ance producer on the basis of criminal his-
14 tory record information provided under
15 subparagraph (E), or where the insurance
16 producer has been subject to disciplinary
17 action, as described in paragraph (2).

18 “(ii) RIGHTS OF APPLICANTS DENIED
19 MEMBERSHIP.—The Association shall no-
20 tify any insurance producer who is denied
21 membership on the basis of criminal his-
22 tory record information provided under
23 subparagraph (E) of the right of the insur-
24 ance producer to—

1 “(I) obtain a copy of all criminal
2 history record information provided to
3 the Association under subparagraph
4 (E) with respect to the insurance pro-
5 ducer; and

6 “(II) challenge the denial of
7 membership based on the accuracy
8 and completeness of the information.

9 “(M) DEFINITION.—For purposes of this
10 paragraph, the term ‘criminal history record
11 check’ means a national background check of
12 criminal history records of the Federal Bureau
13 of Investigation.

14 “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-
15 TERIA.—The Association may establish membership cri-
16 teria that bear a reasonable relationship to the purposes
17 for which the Association was established.

18 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
19 OF MEMBERSHIP.—

20 “(1) CLASSES OF MEMBERSHIP.—The Associa-
21 tion may establish separate classes of membership,
22 with separate criteria, if the Association reasonably
23 determines that performance of different duties re-
24 quires different levels of education, training, experi-
25 ence, or other qualifications.

1 “(2) BUSINESS ENTITIES.—The Association
2 shall establish a class of membership and member-
3 ship criteria for business entities. A business entity
4 that applies for membership shall be required to des-
5 ignate an individual Association member responsible
6 for the compliance of the business entity with Asso-
7 ciation standards and the insurance laws, standards,
8 and regulations of any State in which the business
9 entity seeks to do business on the basis of Associa-
10 tion membership.

11 “(3) CATEGORIES.—

12 “(A) SEPARATE CATEGORIES FOR INSUR-
13 ANCE PRODUCERS PERMITTED.—The Associa-
14 tion may establish separate categories of mem-
15 bership for insurance producers and for other
16 persons or entities within each class, based on
17 the types of licensing categories that exist
18 under State laws.

19 “(B) SEPARATE TREATMENT FOR DEPOSI-
20 TORY INSTITUTIONS PROHIBITED.—No special
21 categories of membership, and no distinct mem-
22 bership criteria, shall be established for mem-
23 bers that are depository institutions or for em-
24 ployees, agents, or affiliates of depository insti-
25 tutions.

1 “(d) MEMBERSHIP CRITERIA.—

2 “(1) IN GENERAL.—The Association may estab-
3 lish criteria for membership which shall include
4 standards for personal qualifications, education,
5 training, and experience. The Association shall not
6 establish criteria that unfairly limit the ability of a
7 small insurance producer to become a member of the
8 Association, including imposing discriminatory mem-
9 bership fees.

10 “(2) QUALIFICATIONS.—In establishing criteria
11 under paragraph (1), the Association shall not adopt
12 any qualification less protective to the public than
13 that contained in the National Association of Insur-
14 ance Commissioners (referred to in this subtitle as
15 the ‘NAIC’) Producer Licensing Model Act in effect
16 as of the date of enactment of the National Associa-
17 tion of Registered Agents and Brokers Reform Act
18 of 2015, and shall consider the highest levels of in-
19 surance producer qualifications established under
20 the licensing laws of the States.

21 “(3) ASSISTANCE FROM STATES.—

22 “(A) IN GENERAL.—The Association may
23 request a State to provide assistance in inves-
24 tigating and evaluating the eligibility of a pro-

1 spective member for membership in the Associa-
2 tion.

3 “(B) AUTHORIZATION OF INFORMATION
4 SHARING.—A submission under subsection
5 (a)(4)(C)(i) made by an insurance producer li-
6 censed in a State shall include a statement
7 signed by the person about whom the assistance
8 is requested authorizing—

9 “(i) the State to share information
10 with the Association; and

11 “(ii) the Association to receive the in-
12 formation.

13 “(C) RULE OF CONSTRUCTION.—Subpara-
14 graph (A) shall not be construed as requiring or
15 authorizing any State to adopt new or addi-
16 tional requirements concerning the licensing or
17 evaluation of insurance producers.

18 “(4) DENIAL OF MEMBERSHIP.—The Associa-
19 tion may, based on reasonably consistently applied
20 standards, deny membership to any State-licensed
21 insurance producer for failure to meet the member-
22 ship criteria established by the Association.

23 “(e) EFFECT OF MEMBERSHIP.—

24 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—
25 Membership in the Association shall—

1 “(A) authorize an insurance producer to
2 sell, solicit, or negotiate insurance in any State
3 for which the member pays the licensing fee set
4 by the State for any line or lines of insurance
5 specified in the home State license of the insur-
6 ance producer, and exercise all such incidental
7 powers as shall be necessary to carry out such
8 activities, including claims adjustments and set-
9 tlement to the extent permissible under the laws
10 of the State, risk management, employee bene-
11 fits advice, retirement planning, and any other
12 insurance-related consulting activities;

13 “(B) be the equivalent of a nonresident in-
14 surance producer license for purposes of author-
15 izing the insurance producer to engage in the
16 activities described in subparagraph (A) in any
17 State where the member pays the licensing fee;
18 and

19 “(C) be the equivalent of a nonresident in-
20 surance producer license for the purpose of sub-
21 jecting an insurance producer to all laws, regu-
22 lations, provisions or other action of any State
23 concerning revocation, suspension, or other en-
24 forcement action related to the ability of a
25 member to engage in any activity within the

1 scope of authority granted under this subsection
2 and to all State laws, regulations, provisions,
3 and actions preserved under paragraph (5).

4 “(2) VIOLENT CRIME CONTROL AND LAW EN-
5 FORCEMENT ACT OF 1994.—Nothing in this subtitle
6 shall be construed to alter, modify, or supercede any
7 requirement established by section 1033 of title 18,
8 United States Code.

9 “(3) AGENT FOR REMITTING FEES.—The Asso-
10 ciation shall act as an agent for any member for
11 purposes of remitting licensing fees to any State
12 pursuant to paragraph (1).

13 “(4) NOTIFICATION OF ACTION.—

14 “(A) IN GENERAL.—The Association shall
15 notify the States (including State insurance
16 regulators) and the NAIC when an insurance
17 producer has satisfied the membership criteria
18 of this section. The States (including State in-
19 surance regulators) shall have 10 business days
20 after the date of the notification in order to
21 provide the Association with evidence that the
22 insurance producer does not satisfy the criteria
23 for membership in the Association.

24 “(B) ONGOING DISCLOSURES REQUIRED.—

25 On an ongoing basis, the Association shall dis-

1 close to the States (including State insurance
2 regulators) and the NAIC a list of the States
3 in which each member is authorized to operate.
4 The Association shall immediately notify the
5 States (including State insurance regulators)
6 and the NAIC when a member is newly author-
7 ized to operate in one or more States, or is no
8 longer authorized to operate in one or more
9 States on the basis of Association membership.

10 “(5) PRESERVATION OF CONSUMER PROTEC-
11 TION AND MARKET CONDUCT REGULATION.—

12 “(A) IN GENERAL.—No provision of this
13 section shall be construed as altering or affect-
14 ing the applicability or continuing effectiveness
15 of any law, regulation, provision, or other action
16 of any State, including those described in sub-
17 paragraph (B), to the extent that the State law,
18 regulation, provision, or other action is not in-
19 consistent with the provisions of this subtitle re-
20 lated to market entry for nonresident insurance
21 producers, and then only to the extent of the in-
22 consistency.

23 “(B) PRESERVED REGULATIONS.—The
24 laws, regulations, provisions, or other actions of
25 any State referred to in subparagraph (A) in-

1 clude laws, regulations, provisions, or other ac-
2 tions that—

3 “(i) regulate market conduct, insur-
4 ance producer conduct, or unfair trade
5 practices;

6 “(ii) establish consumer protections;
7 or

8 “(iii) require insurance producers to
9 be appointed by a licensed or authorized
10 insurer.

11 “(f) BIENNIAL RENEWAL.—Membership in the Asso-
12 ciation shall be renewed on a biennial basis.

13 “(g) CONTINUING EDUCATION.—

14 “(1) IN GENERAL.—The Association shall es-
15 tablish, as a condition of membership, continuing
16 education requirements which shall be comparable to
17 the continuing education requirements under the li-
18 censing laws of a majority of the States.

19 “(2) STATE CONTINUING EDUCATION REQUIRE-
20 MENTS.—A member may not be required to satisfy
21 continuing education requirements imposed under
22 the laws, regulations, provisions, or actions of any
23 State other than the home State of the member.

24 “(3) RECIPROCITY.—The Association shall not
25 require a member to satisfy continuing education re-

1 requirements that are equivalent to any continuing
2 education requirements of the home State of the
3 member that have been satisfied by the member dur-
4 ing the applicable licensing period.

5 “(4) LIMITATION ON THE ASSOCIATION.—The
6 Association shall not directly or indirectly offer any
7 continuing education courses for insurance pro-
8 ducers.

9 “(h) PROBATION, SUSPENSION AND REVOCATION.—

10 “(1) DISCIPLINARY ACTION.—The Association
11 may place an insurance producer that is a member
12 of the Association on probation or suspend or revoke
13 the membership of the insurance producer in the As-
14 sociation, or assess monetary fines or penalties, as
15 the Association determines to be appropriate, if—

16 “(A) the insurance producer fails to meet
17 the applicable membership criteria or other
18 standards established by the Association;

19 “(B) the insurance producer has been sub-
20 ject to disciplinary action pursuant to a final
21 adjudicatory proceeding under the jurisdiction
22 of a State insurance regulator;

23 “(C) an insurance license held by the in-
24 surance producer has been suspended or re-
25 voked by a State insurance regulator; or

1 “(D) the insurance producer has been con-
2 victed of a crime that would have resulted in
3 the denial of membership pursuant to sub-
4 section (a)(4)(L)(i) at the time of application,
5 and the Association has received a copy of the
6 final disposition from a court of competent ju-
7 risdiction.

8 “(2) VIOLATIONS OF ASSOCIATION STAND-
9 ARDS.—The Association shall have the power to in-
10 vestigate alleged violations of Association standards.

11 “(3) REPORTING.—The Association shall imme-
12 diately notify the States (including State insurance
13 regulators) and the NAIC when the membership of
14 an insurance producer has been placed on probation
15 or has been suspended, revoked, or otherwise termi-
16 nated, or when the Association has assessed mone-
17 tary fines or penalties.

18 “(i) CONSUMER COMPLAINTS.—

19 “(1) IN GENERAL.—The Association shall—

20 “(A) refer any complaint against a mem-
21 ber of the Association from a consumer relating
22 to alleged misconduct or violations of State in-
23 surance laws to the State insurance regulator
24 where the consumer resides and, when appro-
25 priate, to any additional State insurance regu-

1 lator, as determined by standards adopted by
2 the Association; and

3 “(B) make any related records and infor-
4 mation available to each State insurance regu-
5 lator to whom the complaint is forwarded.

6 “(2) TELEPHONE AND OTHER ACCESS.—The
7 Association shall maintain a toll-free number for
8 purposes of this subsection and, as practicable, other
9 alternative means of communication with consumers,
10 such as an Internet webpage.

11 “(3) FINAL DISPOSITION OF INVESTIGATION.—
12 State insurance regulators shall provide the Associa-
13 tion with information regarding the final disposition
14 of a complaint referred pursuant to paragraph
15 (1)(A), but nothing shall be construed to compel a
16 State to release confidential investigation reports or
17 other information protected by State law to the As-
18 sociation.

19 “(j) INFORMATION SHARING.—The Association
20 may—

21 “(1) share documents, materials, or other infor-
22 mation, including confidential and privileged docu-
23 ments, with a State, Federal, or international gov-
24 ernmental entity or with the NAIC or other appro-
25 priate entity referred to paragraphs (3) and (4),

1 provided that the recipient has the authority and
2 agrees to maintain the confidentiality or privileged
3 status of the document, material, or other informa-
4 tion;

5 “(2) limit the sharing of information as re-
6 quired under this subtitle with the NAIC or any
7 other non-governmental entity, in circumstances
8 under which the Association determines that the
9 sharing of such information is unnecessary to fur-
10 ther the purposes of this subtitle;

11 “(3) establish a central clearinghouse, or utilize
12 the NAIC or another appropriate entity, as deter-
13 mined by the Association, as a central clearinghouse,
14 for use by the Association and the States (including
15 State insurance regulators), through which members
16 of the Association may disclose their intent to oper-
17 ate in 1 or more States and pay the licensing fees
18 to the appropriate States; and

19 “(4) establish a database, or utilize the NAIC
20 or another appropriate entity, as determined by the
21 Association, as a database, for use by the Associa-
22 tion and the States (including State insurance regu-
23 lators) for the collection of regulatory information
24 concerning the activities of insurance producers.

1 “(k) EFFECTIVE DATE.—The provisions of this sec-
2 tion shall take effect on the later of—

3 “(1) the expiration of the 2-year period begin-
4 ning on the date of enactment of the National Asso-
5 ciation of Registered Agents and Brokers Reform
6 Act of 2015; and

7 “(2) the date of incorporation of the Associa-
8 tion.

9 **“SEC. 324. BOARD OF DIRECTORS.**

10 “(a) ESTABLISHMENT.—There is established a board
11 of directors of the Association, which shall have authority
12 to govern and supervise all activities of the Association.

13 “(b) POWERS.—The Board shall have such of the
14 powers and authority of the Association as may be speci-
15 fied in the bylaws of the Association.

16 “(c) COMPOSITION.—

17 “(1) IN GENERAL.—The Board shall consist of
18 13 members who shall be appointed by the Presi-
19 dent, by and with the advice and consent of the Sen-
20 ate, in accordance with the procedures established
21 under Senate Resolution 116 of the 112th Congress,
22 of whom—

23 “(A) 8 shall be State insurance commis-
24 sioners appointed in the manner provided in
25 paragraph (2), 1 of whom shall be designated

1 by the President to serve as the chairperson of
2 the Board until the Board elects one such State
3 insurance commissioner Board member to serve
4 as the chairperson of the Board;

5 “(B) 3 shall have demonstrated expertise
6 and experience with property and casualty in-
7 surance producer licensing; and

8 “(C) 2 shall have demonstrated expertise
9 and experience with life or health insurance
10 producer licensing.

11 “(2) STATE INSURANCE REGULATOR REP-
12 RESENTATIVES.—

13 “(A) RECOMMENDATIONS.—Before making
14 any appointments pursuant to paragraph
15 (1)(A), the President shall request a list of rec-
16 ommended candidates from the States through
17 the NAIC, which shall not be binding on the
18 President. If the NAIC fails to submit a list of
19 recommendations not later than 15 business
20 days after the date of the request, the President
21 may make the requisite appointments without
22 considering the views of the NAIC.

23 “(B) POLITICAL AFFILIATION.—Not more
24 than 4 Board members appointed under para-

1 graph (1)(A) shall belong to the same political
2 party.

3 “(C) FORMER STATE INSURANCE COMMIS-
4 SIONERS.—

5 “(i) IN GENERAL.—If, after offering
6 each currently serving State insurance
7 commissioner an appointment to the
8 Board, fewer than 8 State insurance com-
9 missioners have accepted appointment to
10 the Board, the President may appoint the
11 remaining State insurance commissioner
12 Board members, as required under para-
13 graph (1)(A), of the appropriate political
14 party as required under subparagraph (B),
15 from among individuals who are former
16 State insurance commissioners.

17 “(ii) LIMITATION.—A former State
18 insurance commissioner appointed as de-
19 scribed in clause (i) may not be employed
20 by or have any present direct or indirect fi-
21 nancial interest in any insurer, insurance
22 producer, or other entity in the insurance
23 industry, other than direct or indirect own-
24 ership of, or beneficial interest in, an in-

1 surance policy or annuity contract written
2 or sold by an insurer.

3 “(D) SERVICE THROUGH TERM.—If a
4 Board member appointed under paragraph
5 (1)(A) ceases to be a State insurance commis-
6 sioner during the term of the Board member,
7 the Board member shall cease to be a Board
8 member.

9 “(3) PRIVATE SECTOR REPRESENTATIVES.—In
10 making any appointment pursuant to subparagraph
11 (B) or (C) of paragraph (1), the President may seek
12 recommendations for candidates from groups rep-
13 resenting the category of individuals described,
14 which shall not be binding on the President.

15 “(4) STATE INSURANCE COMMISSIONER DE-
16 FINED.—For purposes of this subsection, the term
17 ‘State insurance commissioner’ means a person who
18 serves in the position in State government, or on the
19 board, commission, or other body that is the primary
20 insurance regulatory authority for the State.

21 “(d) TERMS.—

22 “(1) IN GENERAL.—Except as provided under
23 paragraph (2), the term of service for each Board
24 member shall be 2 years.

25 “(2) EXCEPTIONS.—

1 “(A) 1-YEAR TERMS.—The term of service
2 shall be 1 year, as designated by the President
3 at the time of the nomination of the subject
4 Board members for—

5 “(i) 4 of the State insurance commis-
6 sioner Board members initially appointed
7 under paragraph (1)(A), of whom not more
8 than 2 shall belong to the same political
9 party;

10 “(ii) 1 of the Board members initially
11 appointed under paragraph (1)(B); and

12 “(iii) 1 of the Board members initially
13 appointed under paragraph (1)(C).

14 “(B) EXPIRATION OF TERM.—A Board
15 member may continue to serve after the expira-
16 tion of the term to which the Board member
17 was appointed for the earlier of 2 years or until
18 a successor is appointed.

19 “(C) MID-TERM APPOINTMENTS.—A
20 Board member appointed to fill a vacancy oc-
21 ccurring before the expiration of the term for
22 which the predecessor of the Board member
23 was appointed shall be appointed only for the
24 remainder of that term.

1 “(3) SUCCESSIVE TERMS.—Board members
2 may be reappointed to successive terms.

3 “(e) INITIAL APPOINTMENTS.—The appointment of
4 initial Board members shall be made no later than 90 days
5 after the date of enactment of the National Association
6 of Registered Agents and Brokers Reform Act of 2015.

7 “(f) MEETINGS.—

8 “(1) IN GENERAL.—The Board shall meet—

9 “(A) at the call of the chairperson;

10 “(B) as requested in writing to the chair-
11 person by not fewer than 5 Board members; or

12 “(C) as otherwise provided by the bylaws
13 of the Association.

14 “(2) QUORUM REQUIRED.—A majority of all
15 Board members shall constitute a quorum.

16 “(3) VOTING.—Decisions of the Board shall re-
17 quire the approval of a majority of all Board mem-
18 bers present at a meeting, a quorum being present.

19 “(4) INITIAL MEETING.—The Board shall hold
20 its first meeting not later than 45 days after the
21 date on which all initial Board members have been
22 appointed.

23 “(g) RESTRICTION ON CONFIDENTIAL INFORMA-
24 TION.—Board members appointed pursuant to subpara-
25 graphs (B) and (C) of subsection (c)(1) shall not have ac-

1 cess to confidential information received by the Associa-
2 tion in connection with complaints, investigations, or dis-
3 ciplinary proceedings involving insurance producers.

4 “(h) ETHICS AND CONFLICTS OF INTEREST.—The
5 Board shall issue and enforce an ethical conduct code to
6 address permissible and prohibited activities of Board
7 members and Association officers, employees, agents, or
8 consultants. The code shall, at a minimum, include provi-
9 sions that prohibit any Board member or Association offi-
10 cer, employee, agent or consultant from—

11 “(1) engaging in unethical conduct in the
12 course of performing Association duties;

13 “(2) participating in the making or influencing
14 the making of any Association decision, the outcome
15 of which the Board member, officer, employee,
16 agent, or consultant knows or had reason to know
17 would have a reasonably foreseeable material finan-
18 cial effect, distinguishable from its effect on the pub-
19 lic generally, on the person or a member of the im-
20 mediate family of the person;

21 “(3) accepting any gift from any person or enti-
22 ty other than the Association that is given because
23 of the position held by the person in the Association;

24 “(4) making political contributions to any per-
25 son or entity on behalf of the Association; and

1 “(5) lobbying or paying a person to lobby on
2 behalf of the Association.

3 “(i) COMPENSATION.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), no Board member may receive any com-
6 pensation from the Association or any other person
7 or entity on account of Board membership.

8 “(2) TRAVEL EXPENSES AND PER DIEM.—

9 Board members may be reimbursed only by the As-
10 sociation for travel expenses, including per diem in
11 lieu of subsistence, at rates consistent with rates au-
12 thorized for employees of Federal agencies under
13 subchapter I of chapter 57 of title 5, United States
14 Code, while away from home or regular places of
15 business in performance of services for the Associa-
16 tion.

17 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**
18 **TIONS.**

19 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND
20 STANDARDS.—

21 “(1) PROCEDURES.—The Association shall
22 adopt procedures for the adoption of bylaws and
23 standards that are similar to procedures under sub-
24 chapter II of chapter 5 of title 5, United States

1 Code (commonly known as the ‘Administrative Pro-
2 cedure Act’).

3 “(2) COPY REQUIRED TO BE FILED.—The
4 Board shall submit to the President, through the
5 Department of the Treasury, and the States (includ-
6 ing State insurance regulators), and shall publish on
7 the website of the Association, all proposed bylaws
8 and standards of the Association, or any proposed
9 amendment to the bylaws or standards of the Asso-
10 ciation, accompanied by a concise general statement
11 of the basis and purpose of such proposal.

12 “(3) EFFECTIVE DATE.—Any proposed bylaw
13 or standard of the Association, and any proposed
14 amendment to the bylaws or standards of the Asso-
15 ciation, shall take effect, after notice under para-
16 graph (2) and opportunity for public comment, on
17 such date as the Association may designate, unless
18 suspended under section 329(c).

19 “(4) RULE OF CONSTRUCTION.—Nothing in
20 this section shall be construed to subject the Board
21 or the Association to the requirements of subchapter
22 II of chapter 5 of title 5, United States Code (com-
23 monly known as the ‘Administrative Procedure
24 Act’).

25 “(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—

1 “(1) SPECIFICATION OF CHARGES.—In any pro-
2 ceeding to determine whether membership shall be
3 denied, suspended, revoked, or not renewed, or to
4 determine whether a member of the Association
5 should be placed on probation (referred to in this
6 section as a ‘disciplinary action’) or whether to as-
7 sess fines or monetary penalties, the Association
8 shall bring specific charges, notify the member of
9 the charges, give the member an opportunity to de-
10 fend against the charges, and keep a record.

11 “(2) SUPPORTING STATEMENT.—A determina-
12 tion to take disciplinary action shall be supported by
13 a statement setting forth—

14 “(A) any act or practice in which the mem-
15 ber has been found to have been engaged;

16 “(B) the specific provision of this subtitle
17 or standard of the Association that any such
18 act or practice is deemed to violate; and

19 “(C) the sanction imposed and the reason
20 for the sanction.

21 “(3) INELIGIBILITY OF PRIVATE SECTOR REP-
22 RESENTATIVES.—Board members appointed pursu-
23 ant to section 324(c)(3) may not—

1 “(A) participate in any disciplinary action
2 or be counted toward establishing a quorum
3 during a disciplinary action; and

4 “(B) have access to confidential informa-
5 tion concerning any disciplinary action.

6 **“SEC. 326. POWERS.**

7 “In addition to all the powers conferred upon a non-
8 profit corporation by the District of Columbia Nonprofit
9 Corporation Act, the Association shall have the power to—

10 “(1) establish and collect such membership fees
11 as the Association finds necessary to impose to cover
12 the costs of its operations;

13 “(2) adopt, amend, and repeal bylaws, proce-
14 dures, or standards governing the conduct of Asso-
15 ciation business and performance of its duties;

16 “(3) establish procedures for providing notice
17 and opportunity for comment pursuant to section
18 325(a);

19 “(4) enter into and perform such agreements as
20 necessary to carry out the duties of the Association;

21 “(5) hire employees, professionals, or special-
22 ists, and elect or appoint officers, and to fix their
23 compensation, define their duties and give them ap-
24 propriate authority to carry out the purposes of this
25 subtitle, and determine their qualification;

1 “(6) establish personnel policies of the Associa-
2 tion and programs relating to, among other things,
3 conflicts of interest, rates of compensation, where
4 applicable, and qualifications of personnel;

5 “(7) borrow money; and

6 “(8) secure funding for such amounts as the
7 Association determines to be necessary and appro-
8 priate to organize and begin operations of the Asso-
9 ciation, which shall be treated as loans to be repaid
10 by the Association with interest at market rate.

11 **“SEC. 327. REPORT BY THE ASSOCIATION.**

12 “(a) IN GENERAL.—As soon as practicable after the
13 close of each fiscal year, the Association shall submit to
14 the President, through the Department of the Treasury,
15 and the States (including State insurance regulators), and
16 shall publish on the website of the Association, a written
17 report regarding the conduct of its business, and the exer-
18 cise of the other rights and powers granted by this sub-
19 title, during such fiscal year.

20 “(b) FINANCIAL STATEMENTS.—Each report sub-
21 mitted under subsection (a) with respect to any fiscal year
22 shall include audited financial statements setting forth the
23 financial position of the Association at the end of such
24 fiscal year and the results of its operations (including the
25 source and application of its funds) for such fiscal year.

1 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**
2 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**
3 **EES OF THE ASSOCIATION.**

4 “(a) IN GENERAL.—The Association shall not be
5 deemed to be an insurer or insurance producer within the
6 meaning of any State law, rule, regulation, or order regu-
7 lating or taxing insurers, insurance producers, or other en-
8 tities engaged in the business of insurance, including pro-
9 visions imposing premium taxes, regulating insurer sol-
10 vency or financial condition, establishing guaranty funds
11 and levying assessments, or requiring claims settlement
12 practices.

13 “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,
14 AND EMPLOYEES.—No Board member, officer, or em-
15 ployee of the Association shall be personally liable to any
16 person for any action taken or omitted in good faith in
17 any matter within the scope of their responsibilities in con-
18 nection with the Association.

19 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

20 “(a) REMOVAL OF BOARD.—If the President deter-
21 mines that the Association is acting in a manner contrary
22 to the interests of the public or the purposes of this sub-
23 title or has failed to perform its duties under this subtitle,
24 the President may remove the entire existing Board for
25 the remainder of the term to which the Board members
26 were appointed and appoint, in accordance with section

1 324 and with the advice and consent of the Senate, in
2 accordance with the procedures established under Senate
3 Resolution 116 of the 112th Congress, new Board mem-
4 bers to fill the vacancies on the Board for the remainder
5 of the terms.

6 “(b) REMOVAL OF BOARD MEMBER.—The President
7 may remove a Board member only for neglect of duty or
8 malfeasance in office.

9 “(c) SUSPENSION OF BYLAWS AND STANDARDS AND
10 PROHIBITION OF ACTIONS.—Following notice to the
11 Board, the President, or a person designated by the Presi-
12 dent for such purpose, may suspend the effectiveness of
13 any bylaw or standard, or prohibit any action, of the Asso-
14 ciation that the President or the designee determines is
15 contrary to the purposes of this subtitle.

16 **“SEC. 330. RELATIONSHIP TO STATE LAW.**

17 “(a) PREEMPTION OF STATE LAWS.—State laws,
18 regulations, provisions, or other actions purporting to reg-
19 ulate insurance producers shall be preempted to the extent
20 provided in subsection (b).

21 “(b) PROHIBITED ACTIONS.—

22 “(1) IN GENERAL.—No State shall—

23 “(A) impede the activities of, take any ac-
24 tion against, or apply any provision of law or
25 regulation arbitrarily or discriminatorily to, any

1 insurance producer because that insurance pro-
2 ducer or any affiliate plans to become, has ap-
3 plied to become, or is a member of the Associa-
4 tion;

5 “(B) impose any requirement upon a mem-
6 ber of the Association that it pay fees different
7 from those required to be paid to that State
8 were it not a member of the Association; or

9 “(C) impose any continuing education re-
10 quirements on any nonresident insurance pro-
11 ducer that is a member of the Association.

12 “(2) STATES OTHER THAN A HOME STATE.—
13 No State, other than the home State of a member
14 of the Association, shall—

15 “(A) impose any licensing, personal or cor-
16 porate qualifications, education, training, expe-
17 rience, residency, continuing education, or
18 bonding requirement upon a member of the As-
19 sociation that is different from the criteria for
20 membership in the Association or renewal of
21 such membership;

22 “(B) impose any requirement upon a mem-
23 ber of the Association that it be licensed, reg-
24 istered, or otherwise qualified to do business or
25 remain in good standing in the State, including

1 any requirement that the insurance producer
2 register as a foreign company with the sec-
3 retary of state or equivalent State official;

4 “(C) require that a member of the Associa-
5 tion submit to a criminal history record check
6 as a condition of doing business in the State; or

7 “(D) impose any licensing, registration, or
8 appointment requirements upon a member of
9 the Association, or require a member of the As-
10 sociation to be authorized to operate as an in-
11 surance producer, in order to sell, solicit, or ne-
12 gotiate insurance for commercial property and
13 casualty risks to an insured with risks located
14 in more than one State, if the member is li-
15 censed or otherwise authorized to operate in the
16 State where the insured maintains its principal
17 place of business and the contract of insurance
18 insures risks located in that State.

19 “(3) PRESERVATION OF STATE DISCIPLINARY
20 AUTHORITY.—Nothing in this section may be con-
21 strued to prohibit a State from investigating and
22 taking appropriate disciplinary action, including sus-
23 pension or revocation of authority of an insurance
24 producer to do business in a State, in accordance
25 with State law and that is not inconsistent with the

1 provisions of this section, against a member of the
2 Association as a result of a complaint or for any al-
3 leged activity, regardless of whether the activity oc-
4 curred before or after the insurance producer com-
5 menced doing business in the State pursuant to As-
6 sociation membership.

7 **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**
8 **REGULATORY AUTHORITY.**

9 “The Association shall coordinate with the Financial
10 Industry Regulatory Authority in order to ease any admin-
11 istrative burdens that fall on members of the Association
12 that are subject to regulation by the Financial Industry
13 Regulatory Authority, consistent with the requirements of
14 this subtitle and the Federal securities laws.

15 **“SEC. 332. RIGHT OF ACTION.**

16 “(a) **RIGHT OF ACTION.**—Any person aggrieved by
17 a decision or action of the Association may, after reason-
18 ably exhausting available avenues for resolution within the
19 Association, commence a civil action in an appropriate
20 United States district court, and obtain all appropriate re-
21 lief.

22 “(b) **ASSOCIATION INTERPRETATIONS.**—In any ac-
23 tion under subsection (a), the court shall give appropriate
24 weight to the interpretation of the Association of its by-
25 laws and standards and this subtitle.

1 **“SEC. 333. FEDERAL FUNDING PROHIBITED.**

2 “The Association may not receive, accept, or borrow
3 any amounts from the Federal Government to pay for, or
4 reimburse, the Association for, the costs of establishing
5 or operating the Association.

6 **“SEC. 334. DEFINITIONS.**

7 “For purposes of this subtitle, the following defini-
8 tions shall apply:

9 “(1) BUSINESS ENTITY.—The term ‘business
10 entity’ means a corporation, association, partnership,
11 limited liability company, limited liability partner-
12 ship, or other legal entity.

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
14 pository institution’ has the meaning as in section 3
15 of the Federal Deposit Insurance Act (12 U.S.C.
16 1813).

17 “(3) HOME STATE.—The term ‘home State’
18 means the State in which the insurance producer
19 maintains its principal place of residence or business
20 and is licensed to act as an insurance producer.

21 “(4) INSURANCE.—The term ‘insurance’ means
22 any product, other than title insurance or bail
23 bonds, defined or regulated as insurance by the ap-
24 propriate State insurance regulatory authority.

25 “(5) INSURANCE PRODUCER.—The term ‘insur-
26 ance producer’ means any insurance agent or

1 broker, excess or surplus lines broker or agent, in-
2 surance consultant, limited insurance representative,
3 and any other individual or entity that sells, solicits,
4 or negotiates policies of insurance or offers advice,
5 counsel, opinions or services related to insurance.

6 “(6) INSURER.—The term ‘insurer’ has the
7 meaning as in section 313(e)(2)(B) of title 31,
8 United States Code.

9 “(7) PRINCIPAL PLACE OF BUSINESS.—The
10 term ‘principal place of business’ means the State in
11 which an insurance producer maintains the head-
12 quarters of the insurance producer and, in the case
13 of a business entity, where high-level officers of the
14 entity direct, control, and coordinate the business
15 activities of the business entity.

16 “(8) PRINCIPAL PLACE OF RESIDENCE.—The
17 term ‘principal place of residence’ means the State
18 in which an insurance producer resides for the great-
19 est number of days during a calendar year.

20 “(9) STATE.—The term ‘State’ includes any
21 State, the District of Columbia, any territory of the
22 United States, and Puerto Rico, Guam, American
23 Samoa, the Trust Territory of the Pacific Islands,
24 the Virgin Islands, and the Northern Mariana Is-
25 lands.

1 “(10) STATE LAW.—

2 “(A) IN GENERAL.—The term ‘State law’
3 includes all laws, decisions, rules, regulations,
4 or other State action having the effect of law,
5 of any State.

6 “(B) LAWS APPLICABLE IN THE DISTRICT
7 OF COLUMBIA.—A law of the United States ap-
8 plicable only to or within the District of Colum-
9 bia shall be treated as a State law rather than
10 a law of the United States.”.

11 (b) TECHNICAL AMENDMENT.—The table of contents
12 for the Gramm-Leach-Bliley Act is amended by striking
13 the items relating to subtitle C of title III and inserting
14 the following new items:

“Subtitle C—National Association of Registered Agents and Brokers

“Sec. 321. National Association of Registered Agents and Brokers.

“Sec. 322. Purpose.

“Sec. 323. Membership.

“Sec. 324. Board of directors.

“Sec. 325. Bylaws, standards, and disciplinary actions.

“Sec. 326. Powers.

“Sec. 327. Report by the Association.

“Sec. 328. Liability of the Association and the Board members, officers, and
employees of the Association.

“Sec. 329. Presidential oversight.

“Sec. 330. Relationship to State law.

“Sec. 331. Coordination with financial industry regulatory authority.

“Sec. 332. Right of action.

“Sec. 333. Federal funding prohibited.

“Sec. 334. Definitions.”.

1 **TITLE III—BUSINESS RISK MITI-**
2 **GATION AND PRICE STA-**
3 **BILIZATION**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Business Risk Mitiga-
6 tion and Price Stabilization Act of 2015”.

7 **SEC. 302. MARGIN REQUIREMENTS.**

8 (a) **COMMODITY EXCHANGE ACT AMENDMENT.**—
9 Section 4s(e) of the Commodity Exchange Act (7 U.S.C.
10 6s(e)), as added by section 731 of the Dodd-Frank Wall
11 Street Reform and Consumer Protection Act, is amended
12 by adding at the end the following new paragraph:

13 “(4) **APPLICABILITY WITH RESPECT TO**
14 **COUNTERPARTIES.**—The requirements of paragraphs
15 (2)(A)(ii) and (2)(B)(ii), including the initial and
16 variation margin requirements imposed by rules
17 adopted pursuant to paragraphs (2)(A)(ii) and
18 (2)(B)(ii), shall not apply to a swap in which a
19 counterparty qualifies for an exception under section
20 2(h)(7)(A), or an exemption issued under section
21 4(c)(1) from the requirements of section 2(h)(1)(A)
22 for cooperative entities as defined in such exemption,
23 or satisfies the criteria in section 2(h)(7)(D).”.

24 (b) **SECURITIES EXCHANGE ACT AMENDMENT.**—
25 Section 15F(e) of the Securities Exchange Act of 1934

1 (15 U.S.C. 78o–10(e)), as added by section 764(a) of the
2 Dodd-Frank Wall Street Reform and Consumer Protec-
3 tion Act, is amended by adding at the end the following
4 new paragraph:

5 “(4) APPLICABILITY WITH RESPECT TO
6 COUNTERPARTIES.—The requirements of paragraphs
7 (2)(A)(ii) and (2)(B)(ii) shall not apply to a secu-
8 rity-based swap in which a counterparty qualifies for
9 an exception under section 3C(g)(1) or satisfies the
10 criteria in section 3C(g)(4).”.

11 **SEC. 303. IMPLEMENTATION.**

12 The amendments made by this title to the Commodity
13 Exchange Act shall be implemented—

14 (1) without regard to—

15 (A) chapter 35 of title 44, United States
16 Code; and

17 (B) the notice and comment provisions of
18 section 553 of title 5, United States Code;

19 (2) through the promulgation of an interim
20 final rule, pursuant to which public comment will be
21 sought before a final rule is issued; and

22 (3) such that paragraph (1) shall apply solely
23 to changes to rules and regulations, or proposed

- 1 rules and regulations, that are limited to and di-
- 2 rectly a consequence of such amendments.

○